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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,031	01/20/2004	Thomas J. Wheeler	0275S-468COA	3122
27572	7590	10/14/2004	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 10/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,031

Applicant(s)

WHEELER ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-23 is/are allowed.
- 6) ☒ Claim(s) 1,9,11,16 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-8,10,12-15,17 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Detailed Action

Claims Objection

Claims 3-8 and 10-19 are objected to because of the following informalities:

(1) In claims 3 and 12, line 2, "a first and second pair" should read --a first pair and a second pair--.

(2) In claim 3 (at line 3) and claim 12 (at lines 3-4), "a fist and second channel" should read --a first channel and a second channel--.

(3) In claim 4, line 2, "said support shaft" should read --said support--.

(4) Claim 10 is objected to since it depends from itself. It appears claim 10 should depend from claim 9. Further, "said base" should read --said base portion--.

(5) In claim 11, line 11, "said carrier second portion" should read --said second portion--.

(6) In claim 15, line 3, "lateral walls" should read --laterally opposed walls--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 102 (b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lew (U.S. Patent No. 4,458,421).

Lew shows a reciprocating saw comprising a housing (14), a motor (11), a saw blade (2), a substantially planar carrier (4), a channel (see Figs.1-2) formed in a first portion of the carrier (4) for receiving the saw blade (2), a slot (8) at a second portion of the carrier (4) forming an opening through the carrier (4), a rotatable element (12), a support (i.e. the shaft of the motor), and follower (9) as claimed.

3. Claims 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lai (U.S. Patent No. 5,479,709).

Lai shows a reciprocating saw comprising a housing (see Fig.3) containing a motor (1); a saw blade (120) having a cutting edge (see Fig.2), a mounting edge and a side surface, the side surface defining a first plane;

a carrier member (6) having a first portion including a base defining a second plane, the base adapted to receive the saw blade (120, see Fig.1), wherein the first plane is parallel to the second plane and the first plane rests on the second plane; and a second portion having a slot (62) forming an opening through the carrier member (6) defining a guide path; a rotatable element (4) rotated by an output shaft (i.e. the spindle of the motor, see column 2, line 24) extending from the motor (1);

a follower (5) for operably interconnecting the second portion and the rotatable element (4) wherein rotation of the rotatable element (4) provides reciprocal linear motion of the carrier member (6) whereby the follower (5) follows a reciprocal linear

pattern within the guide path as claimed. Further, element (7) is considered as a fan since it creates a current of air.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai (U.S. Patent No. 5,479,709) in view of Armstrong (U.S. Patent No. 5,535,520).

Lai's reciprocating saw as set forth shows all the claimed structure except the channel for receiving the saw blade (120) is formed on a clamp member (10, see Fig.2) rather than on the first portion of the carrier (6), and a base portion of the saw is releasably attached to the housing by a screw (see Fig.3) rather than by the claimed lateral rails/walls arrangement.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lai by providing the blade receiving channel on the carrier rather than on the clamp member, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70 (CCPA 1950).

Armstrong shows a reciprocating saw comprising a housing (14,40) and a base portion (36) releasably attached to the housing (14,40) by a lateral rails/walls arrangement (53,54,56,58).

It would have been obvious to one skilled in the art to further modify Lai by attaching the base portion to the housing of the saw by means of a lateral rails/walls arrangement to afford a quick release of the base portion and the saw housing without the use of a tool as taught by Armstrong.

Indication of Allowable Subject Matter

1. Claims 2-8, 10, 12-15, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 20-23 are allowed.

Prior Art Citation

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eisenberg, Schickerling and Orrico are cited as art of interest.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 703-308-

1405. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 703-746-3293 for proposed amendments.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



H Payer
October 13, 2004

Hwai-Siu Payer
Primary Examiner